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 Attorneys for United States of America

**FILED**  
 6-10-2008  
 JUN 10 2008  
 MICHAEL W. DOBBINS  
 CLERK, U.S. DISTRICT COURT

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 Attorney for Funds in the Amount of Seventy-Five Thousand Dollars  
 (\$75,000)

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

FUNDS IN THE AMOUNT OF SEVENTY-FIVE  
 THOUSAND DOLLARS  
 (\$75,000)

Defendant.

Case No. 08CV2933 PH

MOTION FOR EXTENSION OF TIME  
 TO FILE ANSWER TO PLAINTIFF'S  
 VERIFIED COMPLAINT

Before the Honorable  
 CHARLES R. NORGLÉ  
 United States District Court  
 Northern District of Illinois

Plaintiff, United States of America, and defendant, Donald  
 Winchell hereby file this agreed motion for an extension of  
 time in which to file defendant's answer to plaintiff's  
 verified complaint.

I. Background

On May 20, 2008, the last day available to file the complaint, Plaintiff United States of America filed a verified complaint for forfeiture, pursuant to the provisions of Title 21, United States Code, Section 881. On May 22, 2008, Donald Winchell was sent notice of the plaintiff's filing, pursuant to Federal Rule of Civil Procedure 5(a)(3), via certified mail. Pursuant to Supplemental Rule G(5) of the Federal Rules of Civil Procedure, an answer to the complaint under Rule 12 was to have been filed no later than twenty (20) days after the filing of the verified complaint, that date being June 9, 2008.

Attorney John A. Krupa has been retained to represent defendant in this matter. Attorney Krupa has been diligent in preparing a response to plaintiff's verified complaint, but unforeseen circumstances have hindered the timely completion of defendant's answer. Attorney Krupa returned from assisting his immediate family member in Colorado on June 3, 2008 to find the Plaintiff's complaint with a filing deadline less than a week away. Furthermore, Attorney Krupa was informed on June 4, 2008 that this same immediate family member has a medical emergency that requires surgery on June 11, 2008 in Denver, CO. Attorney Krupa has spent considerable amounts of time attending to her needs in Colorado and has been away from his office. As a result of Attorney Krupa's family concerns,

1 he was unable to complete defendant's response to plaintiff's  
2 verified complaint within the time allotted by the Federal  
3 Rules of Civil Procedure.

4 Beginning on June 4, 2008, Attorney Krupa's firm undertook  
5 attempts to contact plaintiff's attorney Marsha A. McClellan  
6 in order to secure an agreed extension of time in which to  
7 file defendant's response. By June 8, 2008 it was determined  
8 that Attorney McClellan was out of her office and could not be  
9 reached. Subsequently, on the morning of June 9, 2008, it was  
10 discovered that plaintiff's attorney Joe Ferguson worked  
11 alongside Attorney McClellan in Asset Forfeiture/Money  
12 Laundering section of the United States Attorney's Office.  
13 Attorney Krupa's law firm contacted Attorney Ferguson to  
14 request an extension of time in which to file defendant's  
15 answer to plaintiff's verified complaint, and Attorney  
16 Ferguson orally agreed to a two (2) week extension. A  
17 facsimile transmission was sent to Attorney Ferguson's office  
18 verifying the oral agreement to an extension. (See attached  
19 exhibit A).  
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21 II. Analysis  
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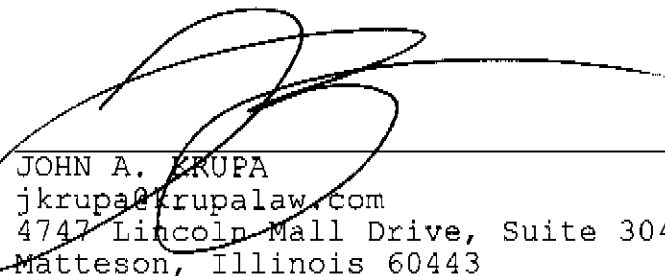
23 Federal Rule of Civil Procedure 6(b)(1)(B) allows for the  
24 court to grant an extension of time in which to act if made  
25 upon motion after the time has expired if the party failed to  
26 act because of excusable neglect. Defendant attorney's neglect  
27 to file the answer to the verified complaint is due to the

1 fact that his obligations to his family arose in an immediate  
2 and unforeseen manner leaving him little time to complete his  
3 response to plaintiff's complaint in the time allotted in the  
4 Federal Rules.

5 III. Conclusion

6 WHEREFORE, based on the foregoing, the undersigned parties  
7 respectfully request that this Honorable Court grant this  
8 motion to extend the time in which defendant has to file an  
9 answer to plaintiff's verified complaint. Specifically,  
10 defendant requests that the court grant Attorney Krupa an  
11 extension to June 25, 2008, as agreed between the plaintiff's  
12 and defendant's attorneys.  
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1 Dated: June \_\_, 2008  
2 Respectfully submitted:

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4 \_\_\_\_\_  
5 JOHN A. KRUPA  
6 jkrupa@krupalaw.com  
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9 Telephone: (708) 747-4500  
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11 Attorney for Funds in the Amount of Seventy-Five Thousand Dollars  
12 (\$75,000)  
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**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

☒ **THE LAW FIRM OF McDERMOTT & KRUPA, P.C.**  
4747 LINCOLN MALL Dr., SUITE 304  
MATTESON, IL 60443  
Telephone No. (708) 747-4500; Facsimile No. (708) 747-4510

On June 11, 2008, I served the document entitled **Motion for Extension of Time to File Answer to Plaintiff's Verified Complaint** upon the parties to this action addressed as stated on the attached service list:

☐ **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

☐ **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Denver, Colorado, with first class postage thereon fully prepaid.

☐ **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Denver, Colorado, with Express Mail postage paid.

☐ **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee.

☐ **FEDERAL EXPRESS BY AGREEMENT OF ALL PARTIES:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Denver, Colorado.

☐ **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

☒ **FAX (BY AGREEMENT ONLY):** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

☒ **(Federal)** I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: June 11, 2008

  
BRANDON T. McCARNHY

**THE LAW FIRM OF McDERMOTT & KRUPA, P.C.**  
**4747 Lincoln Mall Drive, Suite 304**  
**Matteson, IL, 60443**

**SERVICE LIST**

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Fax (708) 747-4510

**June 9, 2008**

To: Assistant United States Attorney Marsha McClellan  
Assistant United States Attorney Joe Ferguson  
Dirksen Federal Building  
219 South Dearborn, Room 500  
Chicago, IL 60604

**Re: United States v. Funds in the Amount of \$75,000  
08 C 2933 (N.D. IL)**

Dear Marsha and Joe:

This letter is written to memorialize the conversation between our offices which took place over the telephone on June 9, 2008. Pursuant to our conversation, your office has agreed to extend the time we are allowed to file an answer to the verified complaint in the above-referenced case by two weeks to June 25, 2008.

Sincerely,

  
Brandon T. McCarthy

**EXHIBIT A**

Dictated, but not read BTM/jp